

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

SECURITIES AND EXCHANGE	§	
COMMISSION,	§	
	§	
Plaintiff,	§	Civil Action No. 4:15-cv-2218
	§	
v.	§	
	§	
FREDERICK ALAN VOIGHT and	§	
DAYSTAR FUNDING, LP,	§	
	§	
Defendants,	§	
	§	
and	§	
	§	
F.A. VOIGHT & ASSOCIATES, LP,	§	
RHINE PARTNERS, LP,	§	
TOPSIDE PARTNERS, LP,	§	
INTERCORE, INC., and	§	
INTERCORE RESEARCH CANADA,	§	
INC. a/k/a INTERCORE CANADA	§	
RESEARCH, INC.,	§	
	§	
Relief Defendants.	§	
	§	

**PLAINTIFF’S RESPONSE TO ORDER [DOC. 27] REGARDING
JURISDICTION OVER RELIEF DEFENDANT
INTERCORE RESEARCH CANADA, INC.**

Plaintiff responds to the Court’s Order dated January 31, 2017 [Doc. 27] as follows:

In attempting to serve Relief Defendant Intercore Research Canada, Inc. (“IRC”) with process through its trustee in bankruptcy in Montreal, Canada, the undersigned counsel represents that she consulted with the Commission’s Office of International Affairs, who advised her that personal service through a process server was not prohibited under Canadian law. Specifically, Article 10 of the

Hague Convention on the Service Abroad of Judicial and Extrajudicial

Documents (the “Hague”) states:

Provided the State of destination does not object, the present Convention shall not interfere with -

- a) the freedom to send judicial documents, by postal channels, directly to persons abroad,
- b) the freedom of judicial officers, officials or other competent persons of the State of origin to effect service of judicial documents directly through the judicial officers, officials or other competent persons of the State of destination,
- c) the freedom of any person interested in a judicial proceeding to effect service of judicial documents directly through the judicial officers, officials or other competent persons of the State of destination.

Hague, available at <https://www.hcch.net/en/instruments/conventions/full-text/?cid=17>.

The Central Authority of Canada does not oppose service in accordance with Article 10.

See <https://www.hcch.net/en/states/authorities/details3/?aid=248>.

Thus, the Commission hired a process server to effectuate personal service on the bankruptcy trustee for IRC, believing that to be the best method to ensure notice of the lawsuit.¹ Having read these provisions again, it appears that the Commission should have hired a process server in Quebec to effectuate service, rather than a U.S.-based service. The undersigned represents to the Court that this was an inadvertent error, and was not intended to deprive the relief defendant of notice of the lawsuit.

The Commission will attempt to effectuate service immediately in accordance with authorized international procedures, and will advise the Court when and how service has been made. While the time limit for service under Rule 4(m) does not apply to

¹ The undersigned counsel represents that she has spoken with the trustee and with counsel for the trustee, and has provided them with a copy of the Complaint in this matter. Thus, IRC has actual notice of the lawsuit.

serving a foreign corporation, the Commission will act in good faith to correct this technical error in a timely manner.

DATED: February 21, 2017

Respectfully submitted,

/s/Jennifer D. Brandt

Jennifer D. Brandt

Attorney-in-Charge

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COUNSEL FOR PLAINTIFF

CERTIFICATE OF SERVICE

I affirm that on February 21, 2017, I electronically filed the foregoing document with the Clerk of the Court for the Southern District of Texas, Houston Division, and have served all parties in accordance with Fed.R.Civ.P.5(b)(2).

/s/ Jennifer D. Brandt

Jennifer D. Brandt